

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

DAVID L. SIMPSON,

Petitioner,

Case No. 3:23-cv-253

v.

WARDEN, Madison  
Correctional Institution,

District Judge Michael J. Newman  
Magistrate Judge Michael R. Merz

Respondent.

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**ORDER: (1) ADOPTING THE INITIAL REPORT AND RECOMMENDATION (Doc. No. 17) AND SUPPLEMENTAL REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (Doc. No. 24); (2) OVERRULING PETITIONER'S OBJECTIONS (Doc. Nos. 22, 25); (3) DENYING AND DISMISSING WITH PREJUDICE PETITIONER'S PETITION FOR A WRIT OF HABEAS CORPUS (Doc. No. 1); (4) DENYING A CERTIFICATE OF APPEALABILITY; (5) CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT *IN FORMA PAUPERIS* STATUS SHOULD BE DENIED ON APPEAL; AND (6) TERMINATING THIS CASE ON THE DOCKET**

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Petitioner David L. Simpson, an inmate in state custody, brings this case through counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. No. 1. This case is before the Court upon the initial and supplemental Report and Recommendations of United States Magistrate Judge Michael R. Merz, to whom this case was referred pursuant to 28 U.S.C. § 636(b). *See* Doc. Nos. 17, 24. Judge Merz recommends that this Court dismiss the petition with prejudice. Doc. No. 17 at PageID 935-36; Doc. No. 24 at PageID 986-87. Petitioner has timely filed objections to both Report and Recommendations. Doc. Nos. 22, 25. As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all filings in this matter, including Petitioner's objections.

Upon careful *de novo* consideration of the foregoing, the Court concludes that Petitioner's objections lack merit and that the two Report and Recommendations correctly analyze the petition and reach well-reasoned conclusions. *See* Doc. No. 17 at PageID 922-36; Doc. No. 24 at PageID 979-87.

Accordingly, the Court (1) **ADOPTS** the Report and Recommendation and Supplemental Report and Recommendation of the Magistrate Judge; (2) **OVERRULES** Petitioner's objections; (3) **DENIES** and **DISMISSES WITH PREJUDICE** Petitioner's habeas corpus petition; (4) **DENIES** Petitioner a certificate of appealability; (5) **CERTIFIES** that any appeal would be objectively frivolous and **CONCLUDES** that Petitioner should be denied *in forma pauperis* status on appeal; and (6) **TERMINATES** this case on the docket.

**IT IS SO ORDERED.**

October 25, 2024

s/Michael J. Newman  
Hon. Michael J. Newman  
United States District Judge